

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.59/86.

Shri Pandharinath Hafibhau Ganvir,
Ghubad Toli, Pulgaon,
Tq. Deoli, Dist. Wardha.

... Applicant

V/s.

1. Union of India, through
the Secretary, Ministry of
Defence, New Delhi.

2. The Commandant,
Central Ammunition Depot,
Pulgaon-Camp, Pulgaon.442303.

3. The Enquiry Officer, through
the Commandant, C.A.D.Pulgaon
Camp, Pulgaon, Tq.Deoli,
Dist. Wardha.

... Respondents.

Coram: Vice-Chairman, B.C.Gadgil,
Member(A), J.G.Rajadhyaksha.

Appearances:

Mr.R.R.Gupta advocate
for the applicant.

Mr.S.R.Atre (for Shri P.M.Pradhan)
for the Respondents.

Oral Judgment:

(Per B.C.Gadgil, Vice-Chairman).

Dated: 15.12.1986.

The applicant who was serving in the Central Ammunition Depot, Pulgaon has preferred this application against the order of his compulsory retirement dated 8.3.1984. The said order was passed after holding a departmental enquiry against him.

2. When this matter was called out for hearing, Mr.S.R.Atre (for Mr.P.M.Pradhan) raised a preliminary objection that the application is not tenable as the applicant has not availed of a remedy by way of a Departmental Appeal against the impugned order and that therefore, the application is not tenable. The

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provisions of section 20(2) of the Administrative Tribunals Act has provided that the Tribunal would not ordinarily entertain the matter, unless the departmental remedies are availed of.

3. Mr. Gupta submitted that the applicant had a right to file a Suit in the Civil Court without filing any departmental appeal. He further contended that in this background making the present application without filing an appeal should be considered in an appropriate manner for the purpose of holding that it was not necessary to prefer any appeal before coming to this Tribunal. We are not very much concerned as to whether the applicant could have filed any suit without preferring a remedy by way of departmental appeal. What is important is that the Administrative Tribunals Act has provided that a litigant must avail all the remedies by way of departmental appeal before coming to this Tribunal. There is nothing which had come in the way of the applicant to file a departmental appeal against the impugned order. In the absence of such appeal having been filed, we do not think that it would be in the fitness of things to entertain the present application.

4. Mr. Gupta submitted that the departmental appeal, if now filed, would be barred by time. That may be so; but the applicant may apply for the condonation of delay and the appellate authority will take into account the merits of such prayer and pass an appropriate order.

5. The result therefore is that this application is liable to be dismissed for not availing the remedy by way of a departmental appeal. Parties to bear their own costs of this application.

T.G. Gadgil

(B.C.GADGIL)
VICE - CHAIRMAN

J.G.Rajadhyaksha
(J.G.RAJADHYAKSHA)
MEMBER(A).